

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

v.

RICHARD M. SCRUSHY,  
Defendant.

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CR-03-BE-0530-S

**ORDER FOR JURY SELECTION**

This cause is before the court on a Joint Motion for Jury Selection (Doc. 211). Having considered the submissions of and discussions with counsel, the applicable law, and the paramount goal of ensuring a fair trial, the court hereby **ORDERS** that the procedures described herein shall be followed in the selection of the jury in this cause. Times stated below shall be followed as closely as possible in light of the progress of the proceedings, but the court and counsel may need to be flexible.

An enlarged venire shall be summoned by the Clerk of the Court to provide adequate potential jurors to seat a panel of twelve jurors and six alternates. Standard district excuse procedure described in the publicly available summonses shall be followed. Excuses for hardship shall be decided by the court without input from the attorneys.

The potential jurors summoned shall report in three groups according to their summons to the Hugo Black Court House on Wednesday, January 5, 2005; Thursday, January 6, 2005; and Friday, January 7, 2005.

On each of these three days, the court will qualify each group of potential jurors according to statute. See The Jury Selection and Service Act of 1968, 28 U.S.C. §

1865. The court will allow one attorney from each side to be present to observe the qualification process. As is the standard practice in this district, neither the press nor the public will be present during the qualification process.

Those jurors who qualify under statute and who are not excused for just cause will be given written voir dire questionnaires to fill out relating to their backgrounds and knowledge of the case at bar and its participants. Attorneys for the parties shall receive one copy per side of the completed questionnaires at the end of each day's session. Blank copies of the questionnaires will be available to the press in the Clerk's office after the final qualified juror has completed the questionnaire and submitted it to the court.

The counsel and parties shall not reveal the contents of the questionnaires to anyone not directly involved in the litigation of this cause. Upon completion of the empaneling of the jury, the parties shall immediately return to the court for destruction via shredding all copies of the questionnaires of potential jurors not selected. The parties may retain a single copy of the questionnaire of each juror empaneled.

The destruction procedure is necessary because the court hereby **ORDERS** that the identities of the jurors not be revealed to the public or the press prior to the completion of the trial. The court **FURTHER ORDERS** that any contact with jurors whether by party, counsel, press, or public will be deemed an act of contempt of this Order. In the event of any contact with any juror, the court will make inquiry into how the juror information became available. Anyone violating this Order shall be subject to possible criminal contempt proceedings. See 18 U.S.C. § 401; 18 U.S.C. § 402.

Counsel shall provide a copy of this Order to anyone from either side having any access to the jury questionnaires.

The court **FURTHER ORDERS** that all references to jurors in public, including within the courtroom, shall be by juror number only. Jurors' identities shall not be announced to the public or the press until the completion of all trial proceedings.

Motions to strike jurors for cause shall be taken in chambers or at the bench beginning Thursday, January 6, 2005, as time allows, while the second group of jurors is filling out its questionnaires. The same shall be true on Friday, January 7, 2005, while the third group of jurors is filling out its questionnaires. On Monday, January 10, 2005, at 9:30 a.m., a hearing for the remainder of the challenges for cause shall be held in chambers of the undersigned. Pursuant to standard practice, hearings on challenges for cause are not open to the public or press.

Approximately 30 of the jurors who are qualified and have not been struck for cause shall report to Courtroom 8 at 9:00 a.m. on Tuesday, January 11, 2005. Each juror shall be asked to answer aloud some basic background questions. The court shall then conduct oral voir dire and the attorneys shall be allowed one hour each in which to pose follow-up questions arising from answers to both the written questionnaires and the court's oral voir dire. This process will be repeated at 1:30 p.m. on January 11, at 9:00 a.m. on January 12, and, if necessary, at 1:30 p.m. on January 12. The press and public shall be allowed to observe these proceedings by simulcast in the Jury Assembly Room on the first floor of the court house because of space constraints.

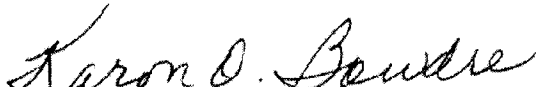
Should the need arise for an answer to be made outside of the presence of the

panel because of privacy or tainting issues, individual voir dire may take place in chambers at the discretion of the court. Neither press nor public are allowed to be present for such individual questioning, as is standard procedure.

Peremptory striking shall begin at 1:30 on Thursday, January 13, 2005, in Courtroom 8. Defendant's request for double the number of strikes allowed the prosecution is hereby **DENIED**. Strikes shall be allowed proportionately as allowed by Federal Rule of Criminal Procedure. See Fed. R. Crim. P. 24. The Defendant shall have 15 strikes and the Government shall have 9 strikes in selecting the jury, and three strikes each for alternate jurors. Defendant's request for alternating strikes is hereby **DENIED**. Strikes shall be simultaneous, in keeping with over a decade of practice in this district.

The court's preliminary instructions to the jury and opening statements shall begin at 9:00 a.m. on Tuesday, January 18, 2005. Taking of testimony shall follow. Press and public shall be allowed to be present in the courtroom, as space allows, and by simulcast otherwise.

**DONE and ORDERED** this the 16<sup>th</sup> day of December 2004.

  
KARON OWEN BOWDRE  
UNITED STATES DISTRICT JUDGE

